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In re Application of
KURIAN, et al. : DECISION ON PETITION
Serial No.: 10/533,872 :
PCT No.: PCT/CA03/01686 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 03 November 2003 :
Priority Date: 05 November 2002 :
Atty Docket No.: 38248 :
For: INTELLIGENT DATA MANAGEMENT :
SYSTEM AND METHOD :

This decision is issued in response to applicant's "Renewed Petition under Rule 37 CFR 1.47(a)" filed 02 October 2006 to accept the application without the signatures of joint inventor, Homayoun Najjaran.

BACKGROUND

On 03 November 2003, applicant filed international application PCT/CA03/01686 which claimed priority to a previous application filed 05 November 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 05 May 2005.

On 05 May 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment; and an Information Disclosure Statement.

On 06 October 2005, applicant was mailed a "Notification of Missing Requirements under 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 09 February 2006, applicant filed a petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor Homayoun Najjaran. In a decision dated 28 June 2006, applicant's petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 02 October 2006, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

A review of the papers filed 02 October 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Homayoun Najjaran) could not be found or reached after diligent effort, stated the last known address of the non-signing inventor (Homayoun Najjaran), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

Accordingly, the petition to revive under 37 CFR 1.137(b) is granted and it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 03 November 2003 under 35 U.S.C. 363, and a date of 09 February 2006 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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